



Commonwealth of Massachusetts

Sex Offender Registry Board

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SEX OFFENDER REGISTRY LAW

G.L. c. 6, §§ 178C – 178Q

178C. Definitions.

Section 178C. As used in sections 178C to 178P, inclusive, the following words shall have the following meanings:-

"Agency", an agency, department, board, commission or entity within the executive or judicial branch, excluding the committee for public counsel services, which has custody of, supervision of or responsibility for a sex offender as defined in accordance with this chapter, including an individual participating in a program of any such agency, whether such program is conducted under a contract with a private entity or otherwise. Each agency shall be responsible for the identification of such individuals within its custody, supervision or responsibility. Notwithstanding any general or special law to the contrary, each such agency shall be certified to receive criminal offender record information maintained by the criminal history systems board for the purpose of identifying such individuals.

"Employment", includes employment that is full-time or part-time for a period of time exceeding 14 days or for an aggregate period of time exceeding 30 days during any calendar year, whether compensated or uncompensated.

"Institution of higher learning", a post secondary institution.

"Mental abnormality", a congenital or acquired condition of a person that affects the emotional or volitional capacity of such person in a manner that predisposes that person to the commission of criminal sexual acts to a degree that makes such person a menace to the health and safety of other persons.

"Predatory", an act directed at a stranger or person with whom a relationship has been established, promoted or utilized for the primary purpose of victimization.

"Sentencing court", the court that sentenced a sex offender for the most recent sexually violent offense or sex offense or the superior court if such sentencing occurred in another jurisdiction or the sex offender registry board to the extent permitted by federal law and established by the board's regulations.

"Sex offender", a person who resides, works or attends an institution of higher learning in the commonwealth and who has been convicted of a sex offense or who has been adjudicated as a youthful offender or as a delinquent juvenile by reason of a sex offense or a person released from incarceration or parole or probation supervision or custody with the department of youth services for such a conviction or adjudication or a person who has been adjudicated a sexually dangerous person under section 14 of chapter 123A, as in force at the time of adjudication, or a person released from civil commitment pursuant to section 9 of said chapter 123A, whichever last occurs, on or after August 1, 1981.

"Sex offender registry", the collected information and data that is received by the criminal history systems board pursuant to sections 178C to 178P, inclusive, as such information and data is modified or amended by the sex offender registry board or a court of competent jurisdiction pursuant to said sections 178C to 178P, inclusive.

"Sex offense", an indecent assault and battery on a child under 14 under section 13B of chapter 265; indecent assault and battery on a mentally retarded person under section 13F of said chapter 265; indecent assault and battery on a person age 14 or over under section 13H of said chapter 265; rape under section 22 of said chapter 265; rape of a child under 16 with force under section 22A of said chapter 265; rape and abuse of a child under section 23 of said chapter 265; assault with intent to commit rape under section 24 of said chapter 265; assault of a child with intent to commit rape under section 24B of said chapter 265; kidnapping of a child under section 26 of said chapter 265; enticing a child under the age of 16 for the purposes of committing a crime under section 26C of said chapter 265; enticing away a person for prostitution or sexual intercourse under section 2 of chapter 272; drugging persons for sexual intercourse under section 3 of said chapter 272; inducing a minor into prostitution under section 4A of said chapter 272; living off or sharing earnings of a minor prostitute under section 4B of said chapter 272; second and subsequent adjudication or conviction for open and gross lewdness and lascivious behavior under section 16 of said chapter 272, but excluding a first or single adjudication as a delinquent juvenile before August 1, 1992; incestuous marriage or intercourse under section 17 of said chapter 272; disseminating to a minor matter harmful to a minor under section 28 of said chapter 272; posing or exhibiting a child in a state of nudity under section 29A of said chapter 272; dissemination of visual material of a child in a state of nudity or sexual conduct under section 29B of said chapter 272; possession of child pornography under section 29C of said chapter 272; unnatural and lascivious acts with a child under 16 under section 35A of said chapter 272; aggravated rape under section 39 of chapter 277; and any attempt to commit a violation of any of the aforementioned sections pursuant to section 6 of chapter 274 or a like violation of the laws of another state, the United States or a military, territorial or Indian tribal authority.

"Sex offense involving a child", an indecent assault and battery on a child under 14 under section 13B of chapter 265; rape of a child under 16 with force under section 22A of said chapter 265; rape and abuse of a child under section 23 of said chapter 265; assault of a child with intent to commit rape under section 24B of said chapter 265; kidnapping of a child under section 26 of said chapter 265; enticing a child under the age of 16 for the purposes of committing a crime under section 26C of said chapter 265; inducing a minor into prostitution under section 4A of said chapter 272; living off or sharing earnings of a minor prostitute under section 4B of said chapter 272; disseminating to a

minor matter harmful to a minor under section 28 of said chapter 272; posing or exhibiting a child in a state of nudity under section 29A of said chapter 272; dissemination of visual material of a child in a state of nudity or sexual conduct under section 29B of said chapter 272; unnatural and lascivious acts with a child under 16 under section 35A of said chapter 272; aggravated rape under section 39 of chapter 277; any attempt to commit a violation of any of the aforementioned sections pursuant to section 6 of chapter 274 or a like violation of the laws of another state, the United States or a military, territorial or Indian tribal authority.

"Sexually violent offense", an indecent assault and battery on a child under 14 under section 13B of chapter 265; indecent assault and battery on a mentally retarded person under section 13F of said chapter 265; rape under section 22 of said chapter 265; rape of a child under 16 with force under section 22A of said chapter 265; assault with intent to commit rape under section 24 of said chapter 265; assault of a child with intent to commit rape under section 24B of said chapter 265; drugging persons for sexual intercourse under section 3 of said chapter 272; unnatural and lascivious acts with a child under 16 under section 35A of said chapter 272; aggravated rape under section 39 of chapter 277; and any attempt to commit a violation of any of the aforementioned sections pursuant to section 6 of chapter 274 or a like violation of the law of another state, the United States or a military, territorial or Indian tribal authority, or any other offense that the sex offender registry board determines to be a sexually violent offense pursuant to the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, 42 U.S.C. section 14071.

"Sexually violent predator", a person who has been convicted of a sexually violent offense or who has been adjudicated as a youthful offender or as a delinquent juvenile by reason of a sexually violent offense, or a person released from incarceration, parole, probation supervision or commitment under chapter 123A or custody with the department of youth services for such a conviction or adjudication, whichever last occurs, on or after August 1, 1981, and who suffers from a mental abnormality or personality disorder that makes such person likely to engage in predatory sexually violent offenses.

178D. Sex offender registry.

Section 178D. The sex offender registry board, known as the board, in cooperation with the criminal history systems board, shall establish and maintain a central computerized registry of all sex offenders required to register pursuant to sections 178C to 178P, inclusive, known as the sex offender registry. The sex offender registry shall be updated based on information made available to the board, including information acquired pursuant to the registration provisions of said sections 178C to 178P, inclusive. The file on each sex offender required to register pursuant to said sections 178C to 178P, inclusive, shall include the following information, hereinafter referred to as registration data:

(a) the sex offender's name, aliases used, date and place of birth, sex, race, height, weight, eye and hair color, social security number, home address and work address and, if the sex offender works at or attends an institution of higher learning, the name and address of the institution;

- (b) a photograph and set of fingerprints;
- (c) a description of the offense for which the sex offender was convicted or adjudicated, the city or town where the offense occurred, the date of conviction or adjudication and the sentence imposed;
- (d) any other information which may be useful in assessing the risk of the sex offender to reoffend; and
- (e) any other information which may be useful in identifying the sex offender.

Notwithstanding any provision of sections 178C to 178P or any other law to the contrary, and in addition to any responsibility otherwise imposed upon the board, the board shall make the sex offender information contained in the sex offender registry, delineated below in subsections (i) through (viii), available for inspection by the general public in the form of a comprehensive database published on the internet, known as the "sex offender internet database"; provided, that no registration data relating to a sex offender given a level 1 or 2 designation by the board under section 178K shall be published in the sex offender internet database but may be disseminated by the board as otherwise permitted by sections 178C to 178P, inclusive; and provided further, that the board shall keep confidential and shall not publish in the sex offender internet database any information relating to requests for registration data under sections 178I and 178J:

- (i) the name of the sex offender;
- (ii) the offender's home address;
- (iii) the offender's work address;
- (iv) the offense for which the offender was convicted or adjudicated and the date of the conviction or adjudication;
- (v) the sex offender's age, sex, race, height, weight, eye and hair color;
- (vi) a photograph of the sex offender, if available;
- (vii) whether the sex offender has been designated a sexually violent predator; and
- (viii) whether the offender is in compliance with the registration obligations of sections 178C to 178P, inclusive.

All information provided to the general public through the sex offender internet database shall include a warning regarding the criminal penalties for use of sex offender registry information to commit a crime or to engage in illegal discrimination or harassment of an offender and the punishment for threatening to commit a crime under section 4 of chapter 275. The sex offender internet database shall be updated regularly, based on information available to the board, and shall be open to searches by the public at any time without charge or subscription. The board shall promulgate rules and regulations to implement, update and maintain such a sex offender internet database, to ensure the accuracy, integrity and security of information contained therein, to ensure

the prompt and, complete removal of registration data for persons whose duty to register has terminated or expired under sections 178G, 178L or 178M or any other law, and to protect against the inaccurate, improper or inadvertent publication of registration data on the internet.

The board shall develop standardized registration and verification forms, which shall include registration data as required pursuant to sections 178C to 178P. The board shall make blank copies of such forms available to all agencies having custody of sex offenders and all city and town police departments; provided, however, that the board shall determine the format for the collection and dissemination of registration data, which may include the electronic transmission of data. Records maintained in the sex offender registry shall be open to any law enforcement agency in the commonwealth, the United States or any other state. The board shall promulgate rules and regulations to implement the provisions of sections 178C to 178P, inclusive. Such rules and regulations shall include provisions which may permit police departments located in a city or town that is divided into more than one zip code to disseminate information pursuant to the provisions of section 178J categorized by zip code and to disseminate such information limited to one or more zip codes if the request for such dissemination is so qualified; provided, however, that for the city of Boston dissemination of information may be limited to one or more police districts.

The board may promulgate regulations further defining in a manner consistent with maintaining or establishing eligibility for federal funding pursuant to the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, 42 U.S.C. section 14071, the eligibility of sex offenders to be relieved of the obligation to register, including but not limited to, regulations limiting motions under subsection (e) of section 178E, section 178G and relief from registration pursuant to paragraph (d) of subsection (2) of section 178K.

178E. Transmission of registration data to sex offender registry board, police departments and FBI.

Section 178E. (a) Not less than 90 days prior to the release of any sex offender required to register pursuant to sections 178C to 178P, inclusive, from custody, the agency which has custody of the sex offender shall transmit to the board said sex offender's registration data, which for purposes of this paragraph shall include identifying factors, anticipated future residence, offense history and documentation of any treatment received for a mental abnormality. The board shall promptly transmit the registration data to the police departments in the municipalities where the sex offender intends to live and work and where the offense was committed and to the Federal Bureau of Investigation. The sex offender shall be informed by, and shall acknowledge in writing to, the agency which has custody of the sex offender of the duty to register in the commonwealth and in any state where he resides, is employed, carries on a vocation or is a student, to verify registration information, to give notice of change of address or intended change of address within the commonwealth or in another state and the penalties for failure to do so and for giving false registration information, and of his right to submit to the board, according to section 178L, documentary evidence relative to his risk of reoffense, the degree of dangerousness posed to the public and of his duty to register under this section. If such sex offender is a juvenile at the time of such notification, notification shall also be mailed to such sex offender's legal guardian or agency

having custody of the juvenile in the absence of a legal guardian and his most recent attorney of record. The agency shall transmit such acknowledgment to the board within ten days of receipt of such acknowledgment. Not later than two days before his release from custody, a sex offender shall register by mailing to the board on a form approved by the board and signed under the pains and penalties of perjury, the sex offender's name, date of birth, home address or intended home address, work address or intended work address and, if the sex offender is or intends to become a part-time or full-time employee of an institution of higher learning, the name and address of the institution, and, if the sex offender is or intends to become a part-time or full-time student of an institution of higher learning, the name and address of the institution. No sex offender shall be released from custody unless such registration has been filled out, signed and mailed to the board.

(b) An agency that has supervision of a sex offender required to register pursuant to sections 178C to 178P, inclusive, on probation or parole shall, within five days of assuming supervision of such sex offender, transmit to the board such sex offender's registration data which, for purposes of this paragraph, shall include identifying factors, residential address or anticipated future residence, work address, offense history, documentation of any sex offender treatment and documentation of any treatment received for a mental abnormality. The agency shall also report any changes of address of any sex offender required to register pursuant to said sections 178E to 178P, inclusive, within its jurisdiction to the board. The board shall promptly transmit the registration data to the police departments in the municipalities where such sex offender intends to live and work and where the offense was committed and to the Federal Bureau of Investigation. The sex offender shall be informed by, and shall acknowledge in writing to, the agency which has custody of the sex offender of the duty to register in the commonwealth and in any state where he resides, is employed, carries on a vocation or is a student, to verify registration information and to give notice of change of address or intended change of address within the commonwealth or in another state and the penalties for failure to do so and for giving false registration information, and of his right to submit to the board, according to section 178L, documentary evidence relative to his risk of reoffense, the degree of dangerousness posed to the public and his duty to register under this section. If such sex offender is a juvenile at the time of such notification, notification shall also be mailed to such sex offender's legal guardian or agency having custody of the juvenile in the absence of a legal guardian, and his most recent attorney of record. A sex offender shall, within two days of receiving such notice, register by mailing to the board on a form approved by the board and signed under the pains and penalties of perjury, the sex offender's name, date of birth, home address or intended home address, work address or intended work address and, if the sex offender is or intends to become a part-time or full-time employee of an institution of higher learning, the name and address of the institution, and, if the sex offender is or intends to become a part-time or full-time student of an institution of higher learning, the name and address of the institution.

(c) Any court which enters a conviction for a sex offense or adjudication as a youthful offender or as a delinquent juvenile by reason of a sex offense, but does not impose a sentence of confinement of 90 days or more to be served immediately shall inform the sex offender and require the sex offender to acknowledge, in writing, his duty to register in the commonwealth and in any state where he resides, is employed, carries on a vocation or is a student, to verify registration information and to give notice of change of address or intended change of address within the commonwealth or in

another state and the penalties for failure to do so and for giving false registration information, and of his right to submit to the board, according to section 178L, documentary evidence relative to his risk of reoffense, the degree of dangerousness posed to the public and of his duty to register under this section. If such sex offender is a juvenile at the time of such adjudication, the legal guardian or agency having custody of the juvenile and his most recent attorney of record shall also be required to acknowledge, in writing, such information. The court shall cause such sex offender's registration data which, for purposes of this paragraph, shall include identifying factors, anticipated future residence, offense history and documentation of any treatment received for a mental abnormality to be transmitted to the board within five days of sentencing. The board shall promptly transmit the registration data to the police departments in the municipalities where such sex offender intends to live and work and where the offense was committed and to the Federal Bureau of Investigation. A sex offender shall, within two days of receiving such notice or of release from confinement, whichever is later, register by mailing to the board on a form approved by the board and signed under the pains and penalties of perjury, the sex offender's name, date of birth, home address or intended home address, work address or intended work address and, if the sex offender is or intends to become a part-time or full-time employee of an institution of higher learning, the name and address of the institution, and, if the sex offender is or intends to become a part-time or full-time student of an institution of higher learning, the name and address of the institution.

(d) Any court which accepts a plea for a sex offense shall inform the sex offender prior to acceptance and require the sex offender to acknowledge, in writing, that such plea may result in such sex offender being subject to the provisions of sections 178C to 178P, inclusive. Failure to so inform the sex offender shall not be grounds to vacate or invalidate the plea.

(e) Upon written motion of the commonwealth, a court which enters a conviction or adjudication of delinquent or as a youthful offender may, at the time of sentencing, having determined that the circumstances of the offense in conjunction with the offender's criminal history does not indicate a risk of reoffense or a danger to the public, find that a sex offender shall not be required to register under sections 178C to 178P, inclusive. Such motion by the commonwealth shall state the reasons for such motion with specificity. The court may not make such a finding if the sex offender has been determined to be a sexually violent predator; has been convicted of two or more sex offenses defined as sex offenses pursuant to the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, 42 U.S.C. section 14071, committed on different occasions; has been convicted of a sex offense involving a child or a sexually violent offense; or if the sex offender is otherwise subject to minimum or lifetime registration requirements as determined by the board pursuant to section 178D.

(f) In the case of a sex offender who has been convicted of a sex offense or adjudicated as a youthful offender or as a delinquent juvenile by reason of a sex offense, on or after December 12, 1999, and who has not been sentenced to immediate confinement, the court shall, within 14 days of sentencing, determine whether the circumstances of the offense in conjunction with the offender's criminal history indicate that the sex offender does not pose a risk of reoffense or a danger to the public. If the court so determines, the court shall relieve such sex offender of the obligation to register under sections 178C to 178P, inclusive. The court may not make such a determination or finding if the sex

offender has been determined to be a sexually violent predator; has been convicted of two or more sex offenses defined as sex offenses pursuant to the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, 42 U.S.C. section 14071, committed on different occasions; has been convicted of a sex offense involving a child or a sexually violent offense; or if the sex offender is otherwise subject to minimum or lifetime registration requirements as determined by the board pursuant to section 178D.

(g) A sex offender who moves into the commonwealth from another jurisdiction shall, within two days of moving into the commonwealth, register by mailing to the board on a form approved by the board and signed under the pains and penalties of perjury, the sex offender's name, date of birth, home address or intended home address, work address or intended work address and, if the sex offender is or intends to become a part-time or full-time employee of an institution of higher learning, the name and address of the institution, and, if the sex offender is or intends to become a part-time or full-time student of an institution of higher learning, the name and address of the institution. The board shall transmit the registration data to the police department in the municipality where such sex offender intends to live and work and, if the sex offender intends to work at or become a student at an institution of higher learning, to the police departments in the municipalities where the sex offender will work or attend such institution and shall transmit the same to the Federal Bureau of Investigation.

(h) A sex offender required to register pursuant to sections 178C to 178P, inclusive, who intends to move to a different city or town within the commonwealth shall, not later than ten days prior to establishing such new residence, register by mailing to the board on a form approved by the board and signed under the pains and penalties of perjury, the sex offender's name, date of birth, home address or intended home address, work address or intended work address and, if the sex offender is or intends to become a part-time or full-time employee of an institution of higher learning, the name and address of the institution, and, if the sex offender is or intends to become a part-time or full-time student of an institution of higher learning, the name and address of the institution. The board shall transmit notice of such change of address to all the police departments in the municipalities where the offense was committed, where the sex offender last registered and where the sex offender intends to live or attend an institution of higher learning and shall transmit the same to the Federal Bureau of Investigation. A sex offender required to register pursuant to said sections 178C to 178P, inclusive, who intends to change his address within a city or town shall notify the board in writing not later than ten days prior to establishing such new residence. The board shall transmit notice of the change of address to the police departments within such city or town, in the municipality where the offense was committed and to the Federal Bureau of Investigation.

(i) A sex offender required to register pursuant to sections 178C to 178P, inclusive, who intends to move out of the commonwealth shall notify the board not later than ten days before leaving the commonwealth. The board shall transmit notice of the change of address to the police departments in the municipalities where such sex offender last registered, where the offense was committed and to the Federal Bureau of Investigation. The board shall notify such sex offender of the duty to register in the new jurisdiction and shall forward a copy of his registration data to the appropriate law enforcement agency in such new jurisdiction.

(j) A sex offender required to register pursuant to sections 178C to 178P, inclusive, who intends to change his work address shall notify the board in writing not later than ten days prior to establishing the new work address and, if the sex offender is or intends to become employed part-time or full-time at an institution of higher learning, the name and address of the institution. The board shall transmit notice of the change of address to the police department in the municipalities where such sex offender previously worked, where such sex offender intends to work, where such sex offender resides or intends to reside and where the offense was committed. The board shall transmit notice of the change of address to the Federal Bureau of Investigation.

(k) The registrar of motor vehicles shall inform a person applying for or renewing a license to operate a motor vehicle that he has a duty to register with the board if such person is a sex offender, pursuant to regulations established by the board.

(l) Except as hereinbefore provided, a sex offender residing or working in the commonwealth or working at or attending an institution of higher learning in the commonwealth shall, within ten days of the effective date of this section, register by mailing to the board on a form approved by the board and signed under the pains and penalties of perjury, the sex offender's name, date of birth, home address or intended home address, work address or intended work address and, if the sex offender is or intends to become a part-time or full-time employee of an institution of higher learning, the name and address of the institution, and, if the sex offender is or intends to become a part-time or full-time student of an institution of higher learning, the name and address of the institution. The board shall promptly transmit the registration data to the police departments where the sex offender intends to live and work, where the offense was committed and, if the sex offender intends to work at or become a student at an institution of higher learning, to the police departments in the municipalities where the sex offender will work or attend such institution and to the Federal Bureau of Investigation. The board shall send written notification of the requirements of sections 178C to 178P, inclusive, to the last known address of all sex offenders residing in the commonwealth who, prior to the effective date of this section, have been released from all custody and supervision. If any such sex offender is a juvenile at the time of such notification, notification shall also be mailed to such sex offender's legal guardian or the agency having custody of the juvenile in the absence of a legal guardian and his most recent attorney of record.

(m) Upon registering, verifying registration information or giving notice of change of address or intended change of address under this section, a sex offender shall provide independent written verification of the address at which he is registered or, if changing address, will be registered.

(n) Registration data received by the board and disseminated to law enforcement pursuant to this section shall not be disseminated to the public except in accordance with sections 178D, 178I, 178J and 178K.

(o) A sex offender who plans to work at or attend an institution of higher learning part-time or full-time in the commonwealth shall, within 10 days prior to commencing employment or enrollment in classes at an institution of higher learning, register by mailing to the board on a form approved by the board and signed under the pains and penalties of perjury, the sex offender's name, date of birth,

home address or intended home address, work address or intended work address, and the name and address of the institution of higher learning. The board shall transmit notice of such change of address to all police departments in the municipalities where the sex offender plans to work at or attend an institution of higher learning and shall transmit the same to the Federal Bureau of Investigation.

(p) A sex offender required to register pursuant to section 178C to 178P, inclusive, who intends to transfer from the institution of higher learning he is attending or stop attending shall notify the board in writing not later than 10 days before leaving the present institution of higher learning and shall provide the board with the name and address of the new institution of higher learning, if applicable. The board shall transmit notice of any such change of address to all police departments in the municipalities where the sex offender previously attended an institution of higher learning and, if applicable, to the police department in the municipality where the sex offender plans to attend an institution of higher learning. The board shall transmit notice of any change of address for the institution of higher learning to the Federal Bureau of Investigation.

(q) Any nonresident person enrolled on a full-time or part-time basis, in any public or private education institution in the commonwealth, including any secondary school, trade or professional institution, shall register with the board if such person is required to register as a sex offender in the state in which he resides. Such student shall, within 10 days of attending such institution, register by mailing to the board on a form approved by the board and signed under the pains and penalties of perjury, the student's name, date of birth, home address and the name and address of the educational institution he is attending.

178F. Annual verification of registration data by mail.

Section 178F. Except as provided in section 178F1/2 for a sex offender finally classified by the board as a level 2 or a level 3 sex offender, a sex offender required to register pursuant to sections 178C to 178P, inclusive, shall annually verify that the registration data on file with the board remains true and accurate by mailing to the board on a form approved by the board and signed under the pains and penalties of perjury, the sex offender's name, date of birth, home address or intended home address, work address or intended work address and, if the sex offender is or intends to become a part-time or full-time employee of an institution of higher learning, the name and address of said institution and, if the sex offender is a part-time or full-time student at an institution of higher learning or intends to become a part-time or full-time student of an institution of higher learning, the name and address of said institution of higher learning. A sex offender who lists a homeless shelter as his residence shall verify registration data every 90 days with the board by mailing to the board on a form approved by the board and signed under the pains and penalties of perjury the sex offender's name, date of birth, home address and work address. A homeless shelter receiving state funding shall cooperate in providing information in the possession of or known to such shelter, when a request for information is made to such shelter by the board; provided, however, that such request for information shall be limited to that which is necessary to verify an offender's registration data or a sex offender's whereabouts. A shelter that violates the provisions of this paragraph shall be punished by a fine of \$100 a day for each day that such shelter continues to violate the provisions of this

paragraph. In addition, in each subsequent year during the month of birth of any sex offender required to register, the board shall mail a nonforwardable verification form to the last reported address of such sex offender. If such sex offender is a juvenile at the time of such notification, notification shall also be mailed to such sex offender's legal guardian or the agency having custody of the juvenile in the absence of a legal guardian and his most recent attorney of record. Such sex offender shall, within five days of receipt, sign the verification form under the penalties of perjury and mail it back to the board. The board shall periodically, and at least annually, send written notice to a city or town police department regarding any sex offender required to register whose last known address was in such city or town or who gave notice of his intent to move to or is otherwise believed to live or work or attend an institution of higher learning in such city or town, but who has failed to register or verify registration information as required.

The board shall examine through electronic transfer of information the tax returns, wage reports, child support enforcement records, papers or other documents on file with the commissioner of revenue or any other entity within the executive branch when there is reason to believe a sex offender required to register has not so registered in accordance with this chapter or where the address of such sex offender cannot be verified through other means; provided, however, that nothing herein shall be construed to authorize the disclosure, directly or indirectly, of any information other than the address of such sex offender.

178F ½. Yearly personal appearance to verify data.

Section 178F ½. A sex offender finally classified by the board as a level 2 or a level 3 sex offender who is required to register pursuant to sections 178C to 178P, inclusive, shall appear in person annually at the local police department in the city or town in which such sex offender lives, or if such sex offender does not reside in the commonwealth, in the city or town in which such sex offender works, or attends an institution of higher learning to verify that the registration data on file remains true and accurate. At such time, the sex offender's photograph and fingerprints shall be updated. Such sex offender who has been determined to be a sexually violent predator under paragraph (c) of subsection (2) of section 178K shall also appear in person at such police department every 90 days to verify that the registration data on file remains true and accurate. Such sex offender who lists a homeless shelter as his residence shall appear in person at such local police department every 90 days to verify that the registration data on file remains true and accurate. A homeless shelter receiving state funding shall cooperate in providing information in the possession of or known to such shelter, when a request for information is made to such shelter by the board or such local police department; provided, however, that such request for information shall be limited to that which is necessary to verify an offender's registration data or a sex offender's whereabouts. A shelter that violates the provisions of this paragraph shall be punished by a fine of \$100 a day for each day that such shelter continues to violate the provisions of this paragraph. In addition, in each subsequent year during the month of birth of any sex offender required to register, the board shall mail a nonforwardable verification form to the last reported address of such sex offender. If such sex offender is a juvenile at the time of such notification, notification shall also be mailed to such sex offender's legal guardian or the agency having custody of the juvenile in the absence of a legal guardian and his most recent attorney of record. Such sex offender shall, within five days of receipt,

sign the verification form under the penalties of perjury and register in person at the police department in the municipality in which such sex offender lives, or if such sex offender does not reside in the commonwealth, in the city or town in which such sex offender works or attends an institution of higher learning. The board shall periodically, and at least annually, send written notice to a city or town police department regarding any sex offender required to register whose last known address was in such city or town or who gave notice of his intent to move to or is otherwise believed to live or work in such city or town, but who has failed to register or verify registration information as required. A sex offender finally classified as a level 2 or level 3 offender shall also comply with the provisions of paragraphs (g) to (j), inclusive, of section 178E, but the offender shall give the required notice in person at the police department in the city or town where such sex offender resides, or if such sex offender does not reside in the commonwealth, in the city or town in which such sex offender works or attends an institution of higher learning.

The board shall examine through electronic transfer of information the tax returns, wage reports, child support enforcement records, papers or other documents on file with the commissioner of revenue or any other entity within the executive branch when there is reason to believe a sex offender required to register has not so registered in accordance with this chapter or where the address of such sex offender cannot be verified through other means; provided, however, that nothing herein shall be construed to authorize the disclosure, directly or indirectly, of any information other than the address of such sex offender, except as otherwise provided by sections 178C to 178P, inclusive.

178G. Termination of duty to register.

Section 178G. The duty of a sex offender required to register pursuant to this chapter and to comply with the requirements hereof shall, unless sooner terminated by the board under section 178L, end 20 years after such sex offender has been convicted or adjudicated or has been released from all custody or supervision, whichever last occurs, unless such sex offender was convicted of two or more sex offenses defined as sex offenses pursuant to the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, 42 U.S.C. section 14071, committed on different occasions, has been convicted of a sexually violent offense; has been determined by the sentencing court to be a sexually violent predator, or if such sex offender is otherwise subject to lifetime registration requirements as determined by the board pursuant to section 178D, in which cases the duty to register shall never be terminated. A person required to register with the sex offender registry board may make an application to said board to terminate the obligation upon proof, by clear and convincing evidence, that the person has not committed a sex offense within ten years following conviction, adjudication or release from all custody or supervision, whichever is later, and is not likely to pose a danger to the safety of others. For so long as such sex offender is under a duty to register in the commonwealth or in any other state where the offender resides or would be under such a duty if residing in the commonwealth, such sex offender shall not be entitled to relief under the provisions of section 100A or 100B of chapter 276.

178H. Failure to register, to verify registration information or to provide change of address notice; false information; penalties.

Section 178H. (a) A sex offender required to register pursuant to this chapter who knowingly: (i) fails to register; (ii) fails to verify registration information; (iii) fails to provide notice of a change of address; or (iv) who knowingly provides false information shall be punished in accordance with this section.

(1) A first conviction under this subsection shall be punished by imprisonment for not less than six months and not more than two and one-half years in a house of correction nor more than five years in a state prison or by a fine of not more than \$1,000 or by both such fine and imprisonment.

(2) A second and subsequent conviction under this subsection shall be punished by imprisonment in the state prison for not less than five years.

(b) Violations of this section may be prosecuted and punished in any county where the offender knowingly: (i) fails to register; (ii) fails to verify registration information; (iii) fails to provide notice of a change of address; or (iv) knowingly provides false information.

(c) Any offender who lists a homeless shelter as his residence pursuant to sections 178C to 178P, inclusive, and who violates the provisions of subsection (a) shall, for a first conviction, be punished by imprisonment for not more than 30 days in a house of correction; for a second conviction, be punished by imprisonment for not more than two and one-half years in a house of correction nor more than five years in a state prison or by a fine of not more than \$1,000, or by both such fine and imprisonment; and for a third and subsequent conviction, be punished by imprisonment in a state prison for not less than five years; provided, however, that the sentence imposed for such third or subsequent conviction shall not be reduced to less than five years, nor suspended, nor shall any person sentenced herein be eligible for probation, parole, work release or furlough, or receive any deduction from his sentence for good conduct until he shall have served five years. Prosecutions commenced hereunder shall neither be continued without a finding nor placed on file.

178I. Requests for sex offender registration information.

Section 178I. Any person who is 18 years of age or older and who states that he is requesting sex offender registry information for his own protection or for the protection of a child under the age of 18 or another person for whom the requesting person has responsibility, care or custody shall receive at no cost from the board a report to the extent available pursuant to sections 178C to 178P, inclusive, which indicates whether an individual identified by name, date of birth or sufficient personal identifying characteristics is a sex offender with an obligation to register pursuant to this chapter, the offenses for which he was convicted or adjudicated and the dates of such convictions or adjudications. Any records of inquiry shall be kept confidential, except that the records may be disseminated to assist or defend in a criminal prosecution.

Information about an offender shall be made available pursuant to this section only if the offender is a sex offender who has been finally classified by the board as a level 2 or level 3 sex offender.

All reports to persons making inquiries shall include a warning regarding the criminal penalties for use of sex offender registry information to commit a crime or to engage in illegal discrimination or harassment of an offender and the punishment for threatening to commit a crime under section 4 of chapter 275.

The board shall not release information identifying the victim by name, address or relation to the offender.

178J. Requests for information; requirements.

Section 178J. (a) A person who requests sex offender registry information shall:

- (1) be 18 years of age or older;
- (2) appear in person at a city or town police station and present proper identification;
- (3) require sex offender registry information for his own protection or for the protection of a child under the age of 18 or another person for whom such inquirer has responsibility, care or custody, and so state; and
- (4) complete and sign a record of inquiry, designed by the board, which shall include the following information: the name and address of the person making the inquiry, the person or geographic area or street which is the subject of the inquiry, the reason for the inquiry and the date and time of the inquiry.

Such records of inquiries shall include a warning regarding the criminal penalties for use of sex offender registry information to commit a crime or to engage in illegal discrimination or harassment of an offender and the punishment for threatening to commit a crime under the provisions of section 4 of chapter 275. Such records of inquiries shall state, before the signature of the inquirer, as follows: "I understand that the sex offender registry information disclosed to me is intended for my own protection or for the protection of a child under the age of 18 or another person for whom I have responsibility, care or custody." Such records of inquiries shall be kept confidential, except that such records may be disseminated to assist in a criminal prosecution.

(b) The person making the inquiry may either:

- (1) identify a specific individual by name or provide personal identifying information sufficient to allow the police to identify the subject of the inquiry; or
- (2) inquire whether any sex offenders live, work or attend an institution of higher learning within the same city or town at a specific address including, but not limited to, a residential address, a business address, school, after-school program, day care center, playground, recreational area or other identified address and inquire in another city or town whether any sex offenders live, work or attend an institution of higher learning within that city or town, upon a reasonable showing that the sex

offender registry information is requested for his own protection or for the protection of a child under the age of 18 or another person for whom the inquirer has responsibility, care or custody; or

(3) inquire whether any sex offenders live, work or attend an institution of higher learning on a specific street within the city or town in which such inquiry is made.

(c) If the search of the sex offender registry results in the identification of a sex offender required to register pursuant to this chapter who has been finally classified by the board as a level 2 or level 3 offender under section 178K, the police shall disseminate to the person making the inquiry:

- (1) the name of the sex offender;
- (2) the home address if located in the areas described in clause (2) or (3) of subsection (b);
- (3) the work address if located in the areas described in said clause (2) or (3) of said subsection (b);
- (4) the offense for which he was convicted or adjudicated and the dates of such conviction or adjudication;
- (5) the sex offender's age, sex, race, height, weight, eye and hair color;
- (6) a photograph of the sex offender, if available; and
- (7) the name and address of the institution of higher learning where the sex offender works or is enrolled as a student, if located in the areas described in clause (2) or (3) of subsection (b).

The police shall not release information identifying the victim by name, address or the victim's relation to the offender.

178K. Sex offender registry board; guidelines to assess risk of reoffense and degree of dangerousness posed to public; classification; evidentiary hearing.

Section 178K. (1) There shall be, in the criminal history systems board, but not subject to its jurisdiction, a sex offender registry board which shall consist of seven members who shall be appointed by the governor for terms of six years, with the exception of the chairman, and who shall devote their full time during business hours to their official duties. The board shall include one person with experience and knowledge in the field of criminal justice who shall act as chairman; at least two licensed psychologists or psychiatrists with special expertise in the assessment and evaluation of sex offenders and who have knowledge of the forensic mental health system; at least one licensed psychologist or psychiatrist with special expertise in the assessment and evaluation of sex offenders, including juvenile sex offenders and who has knowledge of the forensic mental health system; at least two persons who have at least five years of training and experience in probation, parole or corrections; and at least one person who has expertise or experience with victims of sexual

abuse. Members shall be compensated at a reasonable rate subject to approval of the secretary of administration and finance.

The chairman shall be appointed by and serve at the pleasure of the governor and shall be the executive and administrative head of the sex offender registry board, shall have the authority and responsibility for directing assignments of members of said board and shall be the appointing and removing authority for members of said board's staff. In the case of the absence or disability of the chairman, the governor may designate one of the members to act as chairman during such absence or disability. The chairman shall, subject to appropriation, establish such staff positions and employ such administrative, research, technical, legal, clerical and other personnel and consultants as may be necessary to perform the duties of said board. Such staff positions shall not be subject to section 9A of chapter 30 or chapter 31.

The governor shall fill any vacancy for the unexpired term. As long as there are four sitting members, a vacancy shall not impair the right of the remaining members to exercise the powers of the board.

The sex offender registry board shall promulgate guidelines for determining the level of risk of reoffense and the degree of dangerousness posed to the public or for relief from the obligation to register and shall provide for three levels of notification depending on such risk of reoffense and the degree of dangerousness posed to the public; apply the guidelines to assess the risk level of particular offenders; develop guidelines for use by city and town police departments in disseminating sex offender registry information; devise a plan, in cooperation with state and local law enforcement authorities and other appropriate agencies, to locate and verify the current addresses of sex offenders including, subject to appropriation, entering into contracts or interagency agreements for such purposes; and conduct hearings as provided in section 178L. The attorney general and the chief counsel of the committee for public counsel services, or their designees, shall assist in the development of such guidelines. Factors relevant to the risk of reoffense shall include, but not be limited to, the following:

(a) criminal history factors indicative of a high risk of reoffense and degree of dangerousness posed to the public, including:

(i) whether the sex offender has a mental abnormality;

(ii) whether the sex offender's conduct is characterized by repetitive and compulsive behavior;

(iii) whether the sex offender was an adult who committed a sex offense on a child;

(iv) the age of the sex offender at the time of the commission of the first sex offense;

(v) whether the sex offender has been adjudicated to be a sexually dangerous person pursuant to section 14 of chapter 123A or is a person released from civil commitment pursuant to section 9 of said chapter 123A; and

- (vi) whether the sex offender served the maximum term of incarceration;
- (b) other criminal history factors to be considered in determining risk and degree of dangerousness, including:
 - (i) the relationship between the sex offender and the victim;
 - (ii) whether the offense involved the use of a weapon, violence or infliction of bodily injury;
 - (iii) the number, date and nature of prior offenses;
- (c) conditions of release that minimize risk of reoffense and degree of dangerousness posed to the public, including whether the sex offender is under probation or parole supervision, whether such sex offender is receiving counseling, therapy or treatment and whether such sex offender is residing in a home situation that provides guidance and supervision, including sex offender-specific treatment in a community-based residential program;
- (d) physical conditions that minimize risk of reoffense including, but not limited to, debilitating illness;
- (e) whether the sex offender was a juvenile when he committed the offense, his response to treatment and subsequent criminal history;
- (f) whether psychological or psychiatric profiles indicate a risk of recidivism;
- (g) the sex offender's history of alcohol or substance abuse;
- (h) the sex offender's participation in sex offender treatment and counseling while incarcerated or while on probation or parole and his response to such treatment or counseling;
- (i) recent behavior, including behavior while incarcerated or while supervised on probation or parole;
- (j) recent threats against persons or expressions of intent to commit additional offenses;
- (k) review of any victim impact statement; and
- (1) review of any materials submitted by the sex offender, his attorney or others on behalf of such offender.
- (2) The guidelines shall provide for three levels of notification depending on the degree of risk of reoffense and the degree of dangerousness posed to the public by the sex offender or for relief from the obligation to register:

(a) Where the board determines that the risk of reoffense is low and the degree of dangerousness posed to the public is not such that a public safety interest is served by public availability, it shall give a level 1 designation to the sex offender. In such case, the board shall transmit the registration data and designation to the police departments in the municipalities where such sex offender lives and works and attends an institution of higher learning or, if in custody, intends to live and work and attend an institution of higher learning upon release and where the offense was committed and to the Federal Bureau of Investigation. The police shall not disseminate information to the general public identifying the sex offender where the board has classified the individual as a level 1 sex offender. The police and the board may, however, release such information identifying such sex offender to the department of correction, any county correctional facility, the department of youth services, the department of social services, the parole board, the department of probation and the department of mental health, all city and town police departments and the Federal Bureau of Investigation.

(b) Where the board determines that the risk of reoffense is moderate and the degree of dangerousness posed to the public is such that a public safety interest is served by public availability of registration information, it shall give a level 2 designation to the sex offender. In such case, the board shall transmit the registration data and designation to the police departments in the municipalities where the sex offender lives and works and attends an institution of higher learning or, if in custody, intends to live and work and attend an institution of higher learning upon release and where the offense was committed and to the Federal Bureau of Investigation. The public shall have access to the information regarding a level 2 offender in accordance with the provisions of sections 178I and 178J. The sex offender shall be required to register and to verify registration information pursuant to section 178F ½.

(c) Where the board determines that the risk of reoffense is high and the degree of dangerousness posed to the public is such that a substantial public safety interest is served by active dissemination, it shall give a level 3 designation to the sex offender. In such case, the board shall transmit the registration data and designation to the police departments in the municipalities where the sex offender lives and works and attends an institution of higher learning or, if in custody, intends to live and work and attend an institution of higher learning upon release and where the offense was committed and to the Federal Bureau of Investigation. A level 3 community notification plan shall require the police department to notify organizations in the community which are likely to encounter such sex offender and individual members of the public who are likely to encounter such sex offender. The sex offender shall be required to register and to verify registration information pursuant to sections 178F ½. Neighboring police districts shall share sex offender registration information of level 3 offenders and may inform the residents of their municipality of a sex offender they are likely to encounter who resides in an adjacent city or town. The police or the board shall actively disseminate in such time and manner as such police department or board deems reasonably necessary the following information:

- (i) the name of the sex offender;
- (ii) the offender's home address;

(iii) the offender's work address;

(iv) the offense for which the offender was convicted or adjudicated and the date of the conviction or adjudication;

(v) the sex offender's age, sex, race, height, weight, eye and hair color;

(vi) a photograph of the sex offender, if available; provided, that such active dissemination may include publication of such information on the internet by the police department at such time and in such manner as the police or the board deem reasonably necessary; and provided further, that the police or the board shall not release information identifying the victim by name, address or relation to the sex offender. All notices to the community shall include a warning regarding the criminal penalties for use of sex offender registry information to commit a crime or to engage in illegal discrimination or harassment of an offender and the punishment for threatening to commit a crime under section 4 of chapter 275; and

(vii) the name and address of the institution of higher learning that the sex offender is attending.

The public shall have access to the information regarding a level 3 offender in accordance with sections 178D 178I and 178J.

If the board, in finally giving an offender a level 3 classification, also concludes that such sex offender should be designated a sexually violent predator, the board shall transmit a report to the sentencing court explaining the board's reasons for so recommending, including specific identification of the sexually violent offense committed by such sex offender and the mental abnormality from which he suffers. The report shall not be subject to judicial review under section 178M. Upon receipt from the board of a report recommending that a sex offender be designated a sexually violent predator, the sentencing court, after giving such sex offender an opportunity to be heard and informing the sex offender of his right to have counsel appointed, if he is deemed to be indigent in accordance with section 2 of chapter 211D, shall determine, by a preponderance of the evidence, whether such sex offender is a sexually violent predator. An attorney employed or retained by the board may make an appearance, subject to section 3 of chapter 12, to defend the board's recommendation. The board shall be notified of the determination. A determination that a sex offender should not be designated a sexually violent predator shall not invalidate such sex offender's classification. Where the sentencing court determines that such sex offender is a sexually violent predator, dissemination of the sexually violent predator's registration data shall be in accordance with a level 3 community notification plan; provided, however, that such dissemination shall include such sex offender's designation as a sexually violent predator.

(d) The board may, upon making specific written findings that the circumstances of the offense in conjunction with the offender's criminal history do not indicate a risk of reoffense or a danger to the public and the reasons therefor, relieve such sex offender of any further obligation to register, shall remove such sex offender's registration information from the registry and shall so notify the police

departments where said sex offender lives and works or if in custody intends to live and work upon release, and where the offense was committed and the Federal Bureau of Investigation. In making such determination the board shall consider factors, including but not limited to, the presence or absence of any physical harm caused by the offense and whether the offense involved consensual conduct between adults. The burden of proof shall be on the offender to prove he comes within the provisions of this subsection. The provisions of this subsection shall not apply if a sex offender has been determined to be a sexually violent predator; has been convicted of two or more sex offenses defined as sex offenses pursuant to the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, 42 U.S.C. section 14071, committed on different occasions; or has been convicted of a sexually violent offense. The provisions of this subsection shall also not apply if a sex offender has been convicted of a sex offense involving a child or a sexually violent offense, and such offender has not already registered pursuant to this chapter for at least ten years, or if the sex offender is otherwise subject to lifetime or minimum registration requirements as determined by the board pursuant to section 178D.

(3) The sex offender registry board shall make a determination regarding the level of risk of reoffense and the degree of dangerousness posed to the public of each sex offender listed in said sex offender registry and shall give immediate priority to those offenders who have been convicted of a sex offense involving a child or convicted or adjudicated as a delinquent juvenile or as a youthful offender by reason of a sexually violent offense or of a sex offense of indecent assault and battery upon a mentally retarded person pursuant to section 13F of chapter 265, and who have not been sentenced to incarceration for at least 90 days, followed, in order of priority, by those sex offenders who (1) have been released from incarceration within the past 12 months, (2) are currently on parole or probation supervision, and (3) are scheduled to be released from incarceration within six months. All agencies shall cooperate in providing files to the sex offender registry board and any information the sex offender registry board deems useful in providing notice under sections 178C to 178P, inclusive, and in assessing the risk of reoffense and the degree of dangerousness posed to the public by the sex offender. All agencies from which registration data, including data within the control of providers under contract to such agencies, is requested by the sex offender registry board shall make such data available to said board immediately upon request. Failure to comply in good faith with such a request within 30 days shall be punishable by a fine of not more than \$1,000 per day.

178L. Recommended classifications; notification; evidentiary hearings; right to counsel.

Section 178L. (1) Upon review of any information useful in assessing the risk of reoffense and the degree of dangerousness posed to the public by the sex offender, including materials described in the board guidelines and any materials submitted by the sex offender, the board shall prepare a recommended classification of each offender. Such recommendation may be made by board staff members upon written approval by one board member; provided, however, that if the sex offender was a juvenile at the time of the offense, written approval must be given by a board member who is a licensed psychologist or psychiatrist with special expertise in the assessment and evaluation of juvenile sex offenders.

(a) Not less than 60 days prior to the release or parole of a sex offender from custody or incarceration, the board shall notify the sex offender of his right to submit to the board documentary evidence relative to his risk of reoffense and the degree of dangerousness posed to the public and his duty to register according to the provisions of section 178E. If the sex offender is a juvenile at the time of such notification, notification shall also be mailed to the sex offender's legal guardian or agency having custody of the juvenile in the absence of a legal guardian and his most recent attorney of record. Such sex offender may submit such evidence to the board within 30 days of receiving such notice from the board. Upon a reasonable showing, the board may extend the time in which such sex offender may submit such documentary evidence. Upon reviewing such evidence, the board shall promptly notify the sex offender of the board's recommended sex offender classification, his duty to register, if any, his right to petition the board to request an evidentiary hearing to challenge such classification and duty, his right to retain counsel to represent him at such hearing and his right to have counsel appointed for him if he is found to be indigent as determined by the board using the standards under chapter 211D; provided, however, that such indigent offender may also apply for and the board may grant payment of fees for an expert witness in any case where the board in its classification proceeding intends to rely on the testimony or report of an expert witness prepared specifically for the purposes of the classification proceeding. Such sex offender shall petition the board for such hearing within 20 days of receiving such notice. The board shall conduct such hearing in a reasonable time according to the provisions of subsection (2). The failure timely to petition the board for such hearing shall result in a waiver of such right and the registration requirements, if any, and the board's recommended classification shall become final.

(b) The district attorney for the county where such sex offender was prosecuted may, within ten days of a conviction or adjudication of a sexually violent offense, file a motion with the board to make an expedited recommended classification upon a showing that such sex offender poses a grave risk of imminent reoffense. If the petition is granted, the board shall make such recommendation within ten days of the expiration of the time to submit documentary evidence. If the petition is not granted, the board shall make such recommended classification as otherwise provided in this section.

(c) In the case of any sex offender not in custody, upon receiving registration data from the agency, the police department at which the sex offender registered, the sentencing court or by any other means, the board shall promptly notify the sex offender of his right to submit to the board documentary evidence relative to his risk of reoffense and the degree of dangerousness posed to the public and his duty to register, if any, according to section 178E. If such sex offender is a juvenile at the time of such notification, notification shall also be mailed to such sex offender's legal guardian or agency having custody of the juvenile in the absence of a legal guardian and his most recent attorney of record. Such sex offender may submit such evidence to the board within 30 days of receiving such notice from the board. Upon a reasonable showing, the board may extend the time in which a sex offender may submit such documentary evidence. Upon reviewing such evidence, the board shall promptly notify such sex offender of the board's recommended sex offender classification, his duty to register, if any, and his right to petition the board to request an evidentiary hearing to challenge such classification and duty, his right to retain counsel to represent him at such hearing and his right to have counsel appointed for him if he is found to be indigent as determined by the board using the standards under chapter 211D; provided, however, that such indigent offender may also apply for

and the board may grant payment of fees for an expert witness in any case where the board in its classification proceeding intends to rely on the testimony or report of an expert witness prepared specifically for the purposes of the classification proceeding. Such sex offender shall petition the board for such hearing within 20 days of receiving such notice. The board shall conduct such hearing in a reasonable time according to the provisions of subsection (2). The failure timely to petition the board for such hearing shall result in a waiver of such right and the registration requirements, if any, and the board's recommended classification shall become final.

(2) If an offender requests a hearing in accordance with subsection (1), the chair may appoint a member, a panel of three board members or a hearing officer to conduct the hearing, according to the standard rules of adjudicatory procedure or other rules which the board may promulgate, and to determine by a preponderance of evidence such sex offender's duty to register and final classification. The board shall inform offenders requesting a hearing under the provisions of subsection (1) of their right to have counsel appointed if a sex offender is deemed to be indigent as determined by the board using the standards under chapter 211D. If the sex offender does not so request a hearing, the recommended classification and determination of duty to register shall become the board's final classification and determination and shall not be subject to judicial review. All offenders who are juveniles at the time of notification shall be represented by counsel at the hearing.

178M. Judicial review of board's final classification and registration requirements; confidential proceedings and records.

Section 178M. An offender may seek judicial review, in accordance with section 14 of chapter 30A, of the board's final classification and registration requirements. The court shall, if requested, appoint counsel to represent the sex offender in the proceedings if such sex offender is deemed indigent in accordance with section 2 of chapter 211D. An attorney employed or retained by the board may make an appearance, subject to section 3 of chapter 12, to defend the board's decision. The court shall reach its final decision within 60 days of such sex offender's petition for review. The court shall keep proceedings conducted pursuant to this paragraph and records from such proceedings confidential and such proceedings and records shall be impounded, but the filing of an action under this section shall not stay the effect of the board's final classification.

178N. Misuse of information; penalties.

Section 178N. Information contained in the sex offender registry shall not be used to commit a crime against a sex offender or to engage in illegal discrimination or harassment of an offender. Any person who uses information disclosed pursuant to the provisions of sections 178C to 178P, inclusive, for such purpose shall be punished by not more than two and one-half years in a house of correction or by a fine of not more than \$1,000 or by both such fine and imprisonment.

178O. Liability of police officials and public employees.

Section 178O. Police officials and other public employees acting in good faith shall not be liable in a civil or criminal proceeding for any dissemination of sex offender registry information or for any

publication on the internet under section 178D or other act or omission pursuant to the provisions of sections 178C to 178P, inclusive.

178P. Failure to comply with registration requirements; warrantless arrests.

Section 178P. Whenever a police officer has probable cause to believe that a sex offender has failed to comply with the registration requirements of sections 178C to 178P, inclusive, such officer shall have the right to arrest such sex offender without a warrant and to keep such sex offender in custody.

178Q. Sex offender registry fee

Section 178Q. The sex offender registry board shall assess upon every sex offender a sex offender registration fee of \$75, hereinafter referred to as a sex offender registry fee. Said offender shall pay said sex offender registry fee upon his initial registration as a sex offender and annually thereafter on the anniversary of said registration; provided, however, that no such fee shall be assessed or collected until the offender has either (1) waived his right to petition for an evidentiary hearing to challenge his duty to register as a sex offender as set forth in section 178L or (2) has completely exhausted the legal remedies made available to him to so challenge said duty to register pursuant to sections 178L and 178M and has not prevailed in his attempt to eliminate said duty. A sex offender's duty to pay the fee established by this section shall only terminate upon the termination of said offender's duty to register as a sex offender as set forth in section 178G.

The sex offender registry board may waive payment of said sex offender registry fee if it determines that such payment would constitute an undue hardship on said person or his family due to limited income, employment status, or any other relevant factor. Any such waiver so granted shall be in effect only during the period of time that said person is determined to be unable to pay the sex offender registry fee. The sex offender registry board shall establish procedures relative to the collection and waiver of such fee by regulation. Said sex offender registry fee shall be collected by the sex offender registry board and shall be transmitted to the treasurer for deposit into the General Fund. The sex offender registry board shall account for all such fees received and report said fees annually to the secretary of administration and finance and the house and senate committees on ways and means.

G.L. c. 90, § 22(j). Sex offenders' failure to comply with Sex Offender Registry Law - Suspension or revocation of certificate of motor vehicle registration or license; notice.

Upon receipt of notice, as specified by the registrar, from the sex offender registry board, that a sex offender has failed to comply with the registration requirements of sections 178C to 178P, inclusive, of chapter 6, the registrar shall suspend or prohibit issuance or renewal of a license, learner's permit, right to operate a motor vehicle or certificate of motor vehicle registration held by such sex offender. The sex offender shall receive notice that the registrar shall suspend or prohibit renewal of such a license, learner's permit, right to operate a motor vehicle or certificate of motor vehicle registration in 90 days due to his failure to comply with the registration requirements of said sections 178C to 178P, inclusive, of said chapter 6, unless the sex offender furnishes proof to the registrar that he has complied with his sex offender registration requirements. A sex offender whose license, learner's permit, right to operate a motor vehicle or certificate of motor vehicle registration has been suspended due to his failure to comply with the registration requirements of said sections 178C to

178P, inclusive of said chapter 6 may petition for reinstatement of his license, learner's permit, right to operate a motor vehicle or certificate of motor vehicle registration at any time if he produces sufficient proof, as determined by the registrar, that he is in compliance with his sex offender registration requirements. The registrar shall promulgate regulations to implement this subsection, which shall include the opportunity for a hearing to challenge the lack of sex offender registration compliance. If a hearing is requested, the sex offender registry board shall be notified of the time, place, date of hearing and the identity of the sex offender. An affidavit from the sex offender registry board may be introduced as prima facie evidence of the lack of sex offender registration compliance and members or employees of the sex offender registry board need not attend any hearings held under this subsection.

The registrar shall reinstate, issue or renew such license, learner's permit or right to operate a motor vehicle or the registration of a motor vehicle if the sex offender registry board provides to the registrar a notice, as specified by the registrar, stating that the sex offender is in compliance with the registration requirements of said sections 178C to 178P, inclusive, of said chapter 6 and such sex offender shall be assessed a \$100 sex offender registry reinstatement fee which shall be transmitted by the registrar to the treasurer for deposit into the general fund. Notices between the sex offender registry board and the registrar under this subsection may be made in any form, including electronic transmission.